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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DECLARATION OF DR. TIM BECKER

1. From 1998 to 2003, I was a part-time adjunct marketing instructor at the San Diego State University (hereinafter "SDSU"). In 1999, I was also a founding member of a learning project with Karl Meimer that later developed into a company, Total Recall Learning (hereinafter "Total Recall"), the assignee of U.S. Application No. 09/821,061, to Meimer.
2. I have a doctorate in marketing.
3. In the Spring semester 1999, I conducted an experimental test of the operability and utility of the "Marketing Masterfully" computer program in conjunction with my marketing class. There were approximately 70 students in my class, primarily juniors and some seniors.
4. Use of the program could not be required according to the Marketing Department of SDSU's College of Business Administration, therefore, it was made optional and used in place of 10 oral chapter quizzes. Only 4 students chose to go with the quizzes, all others used "Marketing Masterfully."
5. The SDSU computer labs would not put the Marketing Masterfully program on their servers since the program required "writing" to the hard drive and due to prospective viruses.
6. University regulations prohibited us from directly selling the Marketing Masterfully program to students. To be distributed, the "Marketing Masterfully" program had to be sold at the SDSU Aztec bookstores. We sold the Marketing Masterfully CD to Aztec for \$21.40, and Aztec sold the product to students for \$29.95.
7. A "time bomb" of 12 weeks was incorporated into the Marketing Masterfully program to prevent long-term use. More than one student could use each CD during these tests and within the timeframes, that is before the "time bomb" eliminated the users' performance and voided the whole program.
8. On the first day of class, students were briefed about the "Marketing Masterfully" program (about 10 minutes). It was suggested that students who wanted to buy the CD do so this week and it was recommended that they start the program by the end of the second week of classes.
9. On the first day of the second week, I fully detailed the process of using "Marketing Masterfully" and the requirements for earning a grade. Students were told the following:

- (1) The best way to use the program.
 - (2) To earn full credit, the student would be required to use the program on average 14 hours spread out over 2-3 weeks.
 - (3) Students were required to complete the program within 5 weeks and turn in a printout/score sheet from the program indicating their progress as measured by the number of questions taken up to/through Level 3.
 - (4) To get full credit, they had to take 600 or the 648 key points to at least Level 3 and have the New/Missed box be zero. Achieving this level of performance would get them a 100% grade of 225 points. Lesser performance, that is, not getting all 600 to at least Level 3 would get them the percentage of 225 that the number of questions at Level 3 or above reflected. For ex., if the student got 540 to Level 3 or higher, that's 90% of 600 therefore the grade earned would be 90% of 225 or 202 points.
 - (5) Students needed to turn in a "I Have Started" score sheet by the end of the third week. This indicated to me that this student had committed to not take any quizzes and would seek to earn the 225 points by participating in the "Marketing Masterfully" test. All participating students achieved this milestone.
10. Some students finished the program earlier than the final 5 week turn in deadline, approximately 15, the rest turned in the score sheets on the final due date. On that date they were advised what grades they would receive. All participating students achieved full credit for this assignment.
11. The 4 students that took the 10 quizzes averaged 172 points out of 225, and as the case would be, they unanimously wished they had used the Marketing Masterfully program.
12. As part of the testing of the Marketing Masterfully, the following data among other findings was gathered that resulted in changes to the product:
- (1) It would be beneficial to electronically transmit score sheets as opposed to having students hand them in personally.
 - (2) We learned that questions needed to be distributed and mixed in a more random format, basically to "de-sequence" them.
 - (3) We learned that the software algorithm, as implemented, were incorrect. For example, some questions disappeared and some questions were put in improper learning levels.

(4) We learned that several mathematical formulas, as implemented, which calculated retention and completion percentages were incorrect, which resulted in erroneous display of questions.

Penalty of Perjury Statement

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 10001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or document or any patent resulting therefrom.

Dated: 8/18/04

By: Tim A. Becker
Dr. Tim Becker

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